

1 ~~24~~ 45. (Newly Added) A cooked sausage as claimed in claim 11,
2 said milk product comprising an edible, alkaline additive to neutralize the acidity
3 thereof.

1 ~~31~~ 46. (Newly Added) A cooked sausage as claimed in claim ~~24~~ 35,
2 said mild yogurt comprising an edible, alkaline additive to neutralize the acidity
3 thereof.

1 ~~43~~ 47. (Newly Added) A cooked sausage as claimed in claim 32,
2 said mild yogurt comprising an edible, alkaline additive to neutralize the acidity
3 thereof.

REMARKS

At the outset, it is noted with appreciation that claims 8, 9, 29 and 30 are deemed to be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph, and to include all of the limitations of their respective base claims and any intervening claims.

By virtue of this Amendment, this Application now includes claims 1-5, 7-24, 26, 28-32 and 34-47. Each of claims 1, 11, 24 and 32 have been amended to recite that the mixture comprises 10% to 40% by weight of the fermented milk product or mild yogurt. Claims 24 and 32 have been further amended to recite that the mild yogurt has a pH of 4.8 or more. New dependent claims 44-47 recite that the milk product or mild yogurt includes an edible, alkaline additive to neutralize the acidity thereof. Amendments relating to form

are made in claims 5, 7, 8, 16, 26, 28 and 29. Finally, claims 6, 25, 27 and 33 have been cancelled without prejudice or disclaimer of the subject matter thereof.

Claims 1-7, 10-28 and 31-43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Swartz reference. It is respectfully submitted that Swartz fails to disclose or suggest Applicants' claimed invention.

Swartz discloses a range of different sausage types, including fermented sausages (such as salami), cooked sausages and fresh sausages. Swartz teaches adding a small proportion of a cultured dairy product to a sausage to impart a 'good, tangy flavor'. The dairy product may have a pH in the range 4.1 to 4.8, as noted by the Examiner. However, Swartz does not disclose the addition of substantial quantities of a fermented milk product, such as yogurt, to a cooked sausage, i.e., one that is cooked in the factory.

The present invention relates to cooked sausages as opposed to fermented sausages (which are uncooked, being fermented instead) or fresh sausages for home cooking. A problem with factory cooking is that it normally has to be performed under stringent conditions of temperature and time for health reasons. Thus, factory cooking is typically more 'severe' than home cooking, and there is a greater risk of moisture loss from the meat as a result, leading to an undesirably 'dry' meat product, i.e., less juicy. This problem has been discovered to be pH related.

Meat, being a protein, has an isoelectric point and, as you will appreciate, when the meat is electrically neutral, it tends to lose moisture more readily. Yogurt, and other fermented milk products, are typically acidic. Thus, the addition of relatively large quantities of yogurt or other fermented milk products to meat before cooking tends to reduce the pH of the meat towards its isoelectric point. This would not be such a problem if one were adding relatively minor proportions of yogurt or other fermented milk products, as in the case of Swartz, but it is a problem when larger quantities (for example, of more than 10% wt.) are added.

The present invention recognizes the foregoing problem and seeks to overcome it by the use of 'mild' yogurts or other fermented milk products such that, in the overall product, the pH preferably does not fall below about 5.5, for example, the isoelectric point being generally around 5.0-5.2. The overall pH of a product will depend on the pH of the yogurt or other fermented milk product used and on the amount added. Thus, the present invention, in an exemplary embodiment, includes an amount of yogurt or other fermented milk product of 10-40% wt. and an overall pH of at least about 5.5. Swartz is silent on both of these parameters in combination. Accordingly, Applicants believe that the present invention is new over Swartz. Moreover, as Swartz fails to recognize the problem outlined above, fails to suggest the addition of substantial proportions of yogurt or other fermented milk products to comminuted meat for making a cooked sausage and fails to teach or suggest the solution of controlling the pH and the amount added of the yogurt or other fermented milk products

such that the overall pH remains at least about 5.5, for example, Applicants submit that the present invention is also non-obvious over Swartz.

Claims 1-7, 10-28, and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0478526 A1.

EP 0478526 A1 relates to fermented meat sausages and does not disclose or relate to cooked sausages. For that reason alone the contents of EP 0478526 A1 are hardly relevant to the present Application. Furthermore, EP 0478526 A1 teaches mixing meat material with a fermented dairy product such as curd or cheese, stuffing the mixture into casings and then allowing the mixture to ferment further. At no stage is the product cooked. The final product has a pH of 4.6-5.2, e.g., 4.7. Thus, EP 0478526 A1 fails to teach the manufacture of a cooked sausage having an overall pH of at least about 5.5. Furthermore, as the fermented sausage of EP 0478526 A1 is not cooked, the problem of moisture loss on cooking does not arise; accordingly, there is no need to control the overall pH of the sausage to avoid the isoelectric point of the meat. Thus, Applicants believe the present invention is new and non-obvious over the contents of EP 0478526 A1.

Conclusion

For the foregoing reasons, it is respectfully submitted that this Application is now in form for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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April 22, 2002
John M. Keller

VERSION WITH MARKINGS TO SHOW CHANGES MADE**IN THE CLAIMS:**

1 1. (Amended) A cooked sausage comprising a mixture of a
2 meat emulsion and a fermented milk product having a pH of 4.6 or more,
3 wherein said fermented milk product is substantially homogeneously dispersed
4 through the meat emulsion and said mixture has a pH of about 5.5 or more, and
5 wherein said mixture comprises 10 to 40% by weight of the fermented milk
6 product.

1 5. (Amended) A cooked sausage as claimed in claim 1,
2 wherein said mixture comprises 60 to 90% by wt of said meat emulsion.

1 7. (Amended) A cooked sausage as claimed in claim 1,
2 wherein said mixture further comprises up to 10% by weight of various spices ~~or~~
3 ~~other additives.~~

1 8. (Amended) A cooked sausage as claimed in claim 7 wherein
2 said mixture comprises up to 10% by wt of a prebiotic additive.

1 11. (Amended) A method of making a cooked sausage which
2 comprises forming a mixture of a meat emulsion and a fermented milk product
3 having a pH of 4.6 or more, in which mixture said fermented milk product is
4 substantially homogeneously dispersed through the emulsion, forming the
5 mixture into a sausage, and thereafter cooking the sausage; wherein the pH and

6 proportion of the fermented milk product in the mixture is such that the pH of
7 the mixture is 5.5 or more, wherein said mixture comprises 10 to 40% by weight
8 of the fermented milk product.

1 16. (Amended) A method as claimed in claim ~~14~~ 14, wherein
2 said starter culture comprises a slow working starter culture.

1 24. (Amended) A cooked sausage comprising a mixture of a
2 meat emulsion and a mild yogurt, wherein said mild yogurt is substantially
3 homogeneously dispersed through the meat emulsion and said mixture has a pH
4 of about 5.5 or more, and wherein said mixture comprises 10 to 40% by weight
5 of the mild yogurt, and wherein said mild yogurt has a pH of 4.8 or more.

1 26. (Amended) A cooked sausage as claimed in claim 24,
2 wherein said mixture comprises 60 to 90% by wt of said meat emulsion.

1 28. (Amended) A cooked sausage as claimed in claim 24,
2 wherein said mixture further comprises up to 10% by weight of various spices ~~or~~
3 ~~other additives.~~

1 29. (Amended) A cooked sausage as claimed in claim 28,
2 wherein said mixture comprises up to 10% by wt of a prebiotic additive.

1 32. (Amended) A method of making a cooked sausage which
2 comprises forming a mixture of a meat emulsion and mild yogurt, in which
3 mixture said yogurt is substantially homogeneously dispersed through the
4 emulsion, forming the mixture into a sausage, and thereafter cooking the

5 sausage; wherein the pH and proportion of the mild yogurt in the mixture is such
6 that the pH of the mixture is 5.5 or more, and wherein said mixture comprises
7 10 to 40% by weight of the mild yogurt, and wherein said mild yogurt has a pH
8 of 4.8 or more.

Claims 6, 25, 27 and 33 have been cancelled.

Claims 44-47 have been added.